



Stringer C, Hughes S, Whittaker DH, Haworth N, Simmons G.

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Labour Standards and Regulation in GVCs: The Case of the New Zealand Fishing Industry

Abstract

Building on the concept of polarity in global value chains (GVCs), we explore how the nature of the governance of a GVC can evolve and how contingencies can reshape governance arrangements. A case study of the New Zealand fishing industry highlights how parties inside and outside the GVC came to contest labour standards, laying the base for credible regulation. In 2011 through a series of convergent events, migrant crew on board South Korean fishing vessels, hitherto exploited, abused and isolated, emerged as a significant actor to bring about a clear transition in the governance of a multipolar GVC. In this paper we analyse the series of events which led to regulatory change and consider whether the dynamics from the case offer lessons for improving labour standards and regulation in GVCs more generally.

Introduction

The focus of this paper is a disturbing case-study of contemporary labour exploitation in a fisheries global value chain (GVC). For many years, migrant crew members of foreign charter fishing vessels (FCVs), and in particular on some South Korean vessels, operating in New Zealand waters endured outrageous conditions. Those conditions gave rise to campaigns, research and, eventually, legislation designed to bring to an end to such behaviours. The case-study also allows us to look at the pressures that gave rise to that legislation, and at the mechanisms available to States and other actors seeking to prevent labour abuse and establish effective labour standards in similar GVCs.

The case exposes the contingencies that marked the campaign for improved protection. Particular configurations of actors and circumstances emerged in New Zealand (and beyond), driven by the egregious actions of the FCV owners, operators, and contractors. The case also offers some potentially generalizable insights. The GVC in question may be characterized as multipolar, in which the power to set standards was diffuse. Contests such as the one described may ironically offer an arena in which to define, implement and amend labour regulation, thereby improving labour

standards. This dynamic is different from that in unipolar GVCs (Rilsgaard and Hammer, 2011). Hence the case illustrates the kinds of collective action that can make a difference in a situation of multipolarity. Specifically, we show below that whilst many drivers of good labour standards – the International Labour Organisation (ILO), non-governmental organisations (NGOs), political activism, for example – all played a part in achieving new legislated protections, more important was the particular way in which those drivers engaged with the GVC parties, New Zealand as a nation-state, and the nature of the activity in question – deep sea fishing.

The paper proceeds as follows. We locate this paper in the GVC literature, looking at how labour may shape governance arrangements before discussing New Zealand's industrial fisheries GVC. The following section discusses methods before laying out the details of the FCV case-study. We look briefly at the regulatory environment in New Zealand, and then in turn at key drivers - at company and national levels - that impacted on GVC governance. Finally, we offer some thoughts about the significance of the case for regulatory control over labour relations in GVCs.

Global Value Chains

GVCs link firms across geographical space, through a governance structure as well as the institutional context in which firms are embedded (Henderson et al., 2002). According to Gereffi et al. (2008: 6) "production activities previously carried out by vertically integrated firms are now sliced into pieces and dispersed into various locations"; these "scattered activities are subject to tight integration and coordination by transnational lead firms through global supply chains". Lead firms strategically coordinate the value chain through the distribution of resources and profit. Key to coordination is the inter-firm exchange occurring at particular nodes along the chain (Gibbon et al., 2008). Lead firms drive the value chain "through specific mechanics that are related to the nature of entry barriers and core competencies" (Ponte, 2014: 359). In doing so they define chain membership, through both inclusion and exclusion mechanisms, in order to generate higher rents and allocate value added activities (Ponte, 2014).

Much of the GVC research to-date has implicitly characterised governance as internal to the value chain and unipolar (that is, a lead firm plays the dominant governance role) in nature (Bair and Palpaceur, 2015). Other researchers have identified bipolar chains wherein two sets of actors drive the chain (Fold, 2002; Islam, 2009; Riisgaard and Hammer, 2011; Sturgeon, 2002). More recently, Ponte (2014; see also Ponte and Sturgeon, 2014) extended the concepts of unipolar and bipolar value chains to a continuum between unipolar and multipolar value chains. The latter differ from markets "because they are shaped by the explicit strategic actions of powerful actors (both inside

and outside the chain), even if they exhibit multiple foci of power and various kinds of linkages” (Ponte, 2014: 359). Non-firm actors outside the chain include non-governmental organisations (NGOs), social movements and labour unions (Ponte, 2014).

The institutional dimension sheds light on why economic agents are entrenched in a particular geography and the ways institutions impact on firm strategies (Neilson and Pritchard, 2009). For, as Sturgeon (2001: 11) stated, GVCs “do not exist in a vacuum but within a complex matrix of institutions and supporting industries”. By their extended geographical nature, GVCs often cross many national borders (Gereffi and Korzeniewicz, 1994; Bair, 2009). Inevitably, the question of jurisdiction arises, for it is unlikely that a nation state has comprehensive ‘reach’ across a GVC in terms of regulation (Coe, Dicken and Hess, 2008). While the governance of a GVC may rest primarily in the power of a single lead firm, that may not make controlling things much easier. The contractual arrangements within GVCs allow measures of control through sub-contracting agreements (Lakhani, Kuruvilla and Avgar, 2013) that are often not easily susceptible to intervention by national enforcement agencies. Moreover, such is the sophistication of some GVC governance arrangements, it may well be that national enforcement regimes are ill-conformed and equipped organisationally to address the challenges posed by the monitoring and enforcement of standards in GVCs. The configuration of a GVC may well be beyond the current legislative capacity of the individual nation-state and even international regulatory measures.

Ponte and Sturgeon (2014) highlight that most GVCs encompass a variety of linkage types. The character of these linkages “may have great influence on how a value chain in its entirety is governed” (p. 206). Further, the nature of the linkages can differ between nodes of the value chain. This is important in the context of our paper, which focuses on the governance of the upstream end of the fisheries value chain. We contend that the nature of the governance of a particular GVC, or segment of a value chain, can evolve and that contingencies may occur which reshape governance arrangements (Gereffi and Lee, 2015). While multipolar chains can be actively governed by the ‘explicit strategic actions’ of actors inside and outside of the chain, they can also be characterised by lower levels of ‘drivenness’ as “power is more dispersed” (Ponte and Sturgeon, 2014: 215).

Further, GVCs are social as well as economic institutions, influencing and governing the actions of those engaged in its activities (Gereffi and Mayer, 2004; Gereffi and Lee, 2015). Thus, GVCs are patterns of behaviour and practice around which expectations converge. Social expectations are governed by agreed norms among those engaged in the economic functioning of the GVC. Lead firms can set such norms either as an extension of their own governance structures or as an outcome of broader regulatory requirements. Such an institutional framework acts as a compliance pull within

and among the different economic units of the GVC. Central to our understanding of the functioning of the institutional framework is the power and role of the lead firm. However, in the absence of a strong lead firm, social norms within GVCs are largely contingent on the activities of the individual economic units. In this regard, a GVC may be founded on an agreement – perhaps implicit and unwritten - that seeks to organise a diverse and often complex set of economic and social relationships in integrated and mutually beneficial ways. What such arrangements establish are mutual expectations about modes of behaviour and the practices that support them. In seeking to establish a stable system of relations, the transparency of actor behaviour and the enforcement of internationally agreed norms become important in our understanding of non-lead firm GVCs. To this end, labour agency protests (Herod, 1997) and popular campaigns against management behaviour within a GVC can be particularly effective instruments in creating this transparency (Authors, 2014). However, the mechanisms which social and political actors employ to do this remain an important but under-researched consideration in GVC analysis (Bair and Palpacuer, 2015).

Governance and labour standards

Governance engagement with labour standards within GVCs has received increased attention in recent years (cf. Authors, 2014; Barrientos, 2013; Barrientos et al., 2013; Bastia and McGrath 2011; Phillips and Mieres, 2015; Phillips and Sakamoto, 2012; Strauss, 2012; 2013). Offshoring of production has led to increasing complexities in labour contract arrangements (Barrientos, 2013; Barrientos et al., 2013) which in turn have exacerbated monitoring and enforcement (Authors, 2014). Barrientos (2011: 4) argues that “labour contracting is a logical extension of global outsourcing of production, where risk and cost are offset down value chains”. Suppliers and producers seek to manage pressures in GVCs through labour chains, and in particular through cost-cutting pressures. Phillips and Mieres (2015) hold that while examples of abusive treatment of labour are often deliberately treated as rogue and aberrant, they follow the logic of such pressures. Citing Harrod (1987), they posit: “It is important to emphasize that in these conditions a reduction in labour costs does not come about through higher productivity...; rather, it is achieved through the ruthless pursuit of flexibility, relentless downward pressure on wages and conditions, and active construction of a disarticulated and highly vulnerable workforce” (Phillips and Mieres, 2015: 251-252).

Participation in a GVC can change the composition of a labour force through downward pressures on conditions. Subsequent interventions such as economic and social upgrading are contingent on the quality of governance frameworks in which international labour standards are observed (ILO, 2013; Knorringa and Pegler, 2006; OECD, 2013; Shingal, 2015). Previous research has highlighted how

unipolar governance modes can facilitate the implementation of labour standards along the value chain. Adopting the notion of 'governance as drivenness' (rather than 'governance as coordination'), for instance, Riisgaard and Hammer (2011: 174-175) argue that GVCs with hands-on lead firms "open the strategic option of targeting the powerful actor(s) in the chain, the driver(s), whereas labour will find it much more difficult to systematically tackle less driven chains, particularly when they are characterized by market-based relationships." On the other hand, counter-examples may be offered, in which lead firms are so powerful that they can diminish labour standards through political leverage. In the case of the New Zealand film industry, for example, the presence of such players in Hollywood, working with representatives of the domestic industry, were able in 2011 to demand a marked reduction in labour protection for film crews (Haworth, 2011).

In terms of multipolar governance, public and social actors provide possibilities for labour to shape governance arrangements. At the public level, international framework agreements and private social standards are "avenues for labour to shape the governance of value chains, by using the power of lead firms for enforcement and transforming aspects of the employment relationship into entry barriers for participation in the chain" (Riisgaard and Hammer, 2011: 175). In turn, social actors can be effective in regulating working conditions (Gereffi and Lee, 2015). Gereffi and Lee (2015) note that a multi-stakeholder approach is often more effective in bringing about change than a single actor approach. Importantly workers themselves can be "active change agents in improving their own social conditions" (p.9).

Shepherd (2013) suggests that labour outcomes are influenced by the type of activities undertaken by GVC participants and would be 'highly case specific' (p.11). Similarly, in their analysis of labour standards and GVCs in the international sports goods industry, Nadvi et al. (2011) concluded that the impact of labour standards on global production arrangements will "play out in different ways in different locations" influenced by sourcing histories, GVC configuration and local institutional arrangements (2011: 351). For Posthuma and Nathan (2010), to understand multi-polar governance, geography matters.

Finally, GVCs change in response to their own internal dynamics as well as their political, economic and social environments. Power configurations are complex, involving contingent governance structures and the embeddedness of practices through which power is exerted (Coe and Hess, 2013: 5). These dynamics are not mutually exclusive, and indeed may reinforce each other during periods of critical change and uncertainty. The configuration of the chain may matter a great deal for those who work in them. Some GVCs are characterised by a low level of 'drivenness', and if triggered by contingencies, can be reshaped according to the nature of the contingency. In some situations

chronic labour abuses may persist for many years in the absence of obvious levers for change. Such was the situation in the New Zealand fishing industry.

The New Zealand Fisheries GVC

New Zealand's exclusive economic zone (EEZ) established in 1977, is the sixth largest in the world; FCVs began fishing in the EEZ in the late 1970s in partnership with New Zealand fishing enterprises. Under the United Nations Law of the Sea (UNCLOS), coastal nations have priority access to fish resources within its 200 mile jurisdiction. As many New Zealand fishing enterprises did not have the vessel capacity to catch their deep water catch allocation, the New Zealand government encouraged the formation of joint ventures (JVs) with foreign fishing companies. The JVs were intended to be an interim measure until New Zealand companies built up their capacity and expertise. South Korean fishing companies were amongst the first to operate under this arrangement. The New Zealand model was in sharp contrast to other developed countries wherein domestically flagged vessels operated almost exclusively in their EEZ.

In the 2010/2011 fishing year, there were 56 vessels operating in New Zealand's EEZ, of which 27 were foreign flagged vessels under charter to New Zealand fishing companies. The remaining New Zealand flagged vessels were operated by 17 New Zealand companies dominated by the three largest fishing companies: Sanford, Sealord and Talley's (Ministerial Inquiry into Foreign Charter Vessels, 2012). In this same fishing year, FCVs caught 51% of major fish species. Almost all of the fish caught in New Zealand's EEZ is exported (Ministerial Inquiry into Foreign Charter Vessels, 2012). Half of the FCVs vessels – 13 – were flagged to South Korea (Dawson, 2012).

New Zealand's industrial fisheries value chain can be mapped out as follows, using the example of South Korean vessels. At the upstream end, New Zealand quota owners (those who hold rights to harvest fish stocks) or charter parties contracted out fishing to South Korean operators. The vessels operated on a time charter arrangement whereby the vessel was chartered fully crewed by the New Zealand charterer party but operated by South Korean fishing companies within the New Zealand institutional framework (Authors, 2014). Vessels were crewed by South Korean officers, but lower rank crew members were recruited through recruitment agents from elsewhere in Asia, predominately Indonesia, often under deceptive and exploitative recruitment conditions (Authors, 2016).

The New Zealand charterer directed the vessel as to the location, type and quantity of the catch, while the South Korean operators controlled the key nodes of harvesting and production. Basic production occurred at sea – for example heading and gutting of fish – with much of the catch

exported to China for post-harvest processing, and subsequently re-exported to key markets in the US and Europe as a 'Product of New Zealand' (Authors, 2011b). A variety of wholesalers and retailers purchased the fish. One South Korean company fishing in New Zealand's EEZ – Dong Wong Fisheries Co. Ltd - operates a value-added processing plant in China; this plant is a joint venture operation with Sanford (Author, 2010; Dong Wong, 2015). Catch from the South Korean FCVs was also exported to South Korea under tariff-free entry. This catch is processed and sold within Korea as well as to international markets.

Migrant fishers employed by foreign fishing operators were required to hold temporary New Zealand work visas. It was the responsibility of the New Zealand charterer to apply to Immigration New Zealand for an Approval in Principle (AIP) to recruit crew and subsequently apply for work visas. Crew were to be employed under a New Zealand contract that incorporated minimum terms and conditions provided by law. In practice, the crew were employed under three different contracts (Indonesian, New Zealand and South Korean), each designed to meet the regulatory requirements of the respective countries (Authors, 2016).

The FCV fisheries value chain is a commodity, high-volume chain predicated on maximizing catches and minimising costs. South Korean operators sought to minimise costs through their control of labour and labour chains. The multipolar cost driven chain extended across firm boundaries and national frontiers, operating under unclear institutional frameworks. While the vessels were fishing on behalf of New Zealand charterers, the value chain was controlled by South Korean fishing companies. There was little opportunity for the New Zealand chartering party to capture, or add economic value (Authors, 2011a; Talley's Group, 2011). Moreover, the New Zealand institutional context was such that FCVs acted "largely in a regulatory and compliance 'vacuum' ... [leading] to undesirable exploitative practices" (Talley's Group, 2011: 4). At the downstream end of the chain, buying firms, such as large-scale wholesalers (like Mazzetta in the US) and retailers exercise power over secondary processors by pressuring them to meet specifications and cost. This in turn impacts on fishing and production practices, placing increased pressure on margins (Authors, 2011b).

Methods

Between 2011 and 2014 we undertook 293 semi-structured interviews with migrant crew members from Indonesia, Burma, China and the Philippines who had worked on board South Korean FCVs, as well as with industry personnel in Indonesia and New Zealand, government and NGO representatives. Access to the Indonesian crew was initially obtained through the Indonesian Society in New Zealand before employing a snowballing strategy. Interviews with crew were conducted

using translators and lasted between one and four hours with follow-up interviews undertaken with a number of crew members. On occasion dual translators were used for rigour.

We obtained official documents pursuant to the New Zealand Official Information Act 1982. The documents included: observers' handwritten diaries, Ministry of Fisheries and Department of Labour reports, Immigration New Zealand AIP documents and Ministerial communications. We also obtained employment contracts (Indonesian, New Zealand and South Korean), evidence of recruitment fees paid to manning agents along with receipts for security and deeds of security, wage calculation sheets, pay slips, crew bank statements, and forged electronic funds transfer receipts used by employers to demonstrate that crew members had received their legal wage entitlements. The documents verified interview data.

Labour Conditions and the New Zealand Regulatory Environment

The case which follows highlights how change did come about, through a series of convergent contingencies. After describing these, we analyze whether there are lessons which can be drawn, despite the contingencies, which may be more broadly applicable.

Recruitment practices

The Indonesian crew were sourced through crewing agents. In order to secure employment, crew were required to pay the agents a fee as well as sign-over collateral, for example land deeds, house titles, and other assets as a necessary condition. Some borrowed money from the agent in order to pay the recruitment fee, thus entering into debt bondage. Further, many were subjected to deceptive and coercive recruitment practices (Authors, 2016). The agents played a key role in controlling the labour chain. Wages were paid directly to the agent, who would transfer a percentage of the money to the crew member's family. The remainder was held by the agent until the crew member had completed their contract. If they failed to complete their contract, crew forfeited their collateral as well as the wages held by the agents (Authors, 2014). This system exerted a powerful control function over workers.

Employment conditions

In 2011, Indonesian crew members from a number of South Korean FCVs walked off their vessels while berthed in New Zealand ports, citing non-payment of wages. Many also reported verbal, physical and sexual abuse (Authors, 2014). Conditions aboard vessels were harsh, with crew members working in unsafe and unsanitary conditions. Living quarters were cramped, damp and filthy, Bed bugs were common (Interviewees 1 and 6). Often mattresses were

decrepit or crew members were required to use old dirty blankets for a mattress (Interviewees 6 and 20). Basic necessities such as food and water were insufficient and of poor quality. On board many vessels, food supplies were rationed and locked up and if the crew members asked for more food, they were verbally abused by the Korean officers (Interviewees 40, 43, 53, 62, 198). On one vessel, crew members were mostly only permitted small quantities of meat or fish, with little or no fresh produce. One interviewee recalled only being allowed one piece of fruit – an apple – a month.

Many were forced to work excessively long shifts with insufficient rest periods. On average, they worked between 16 and 18 hours a day, 7 days a week, for a 2 year period. During heavy fishing periods, shifts could be more than 30 hours, with breaks curtailed or not permitted. Falling asleep while working resulted in brutal punishment. A large number of interviewees reported that they had been required to sign blank timesheets or timesheets reflecting incorrect hours. They were abused if they queried the hours on the timesheet that they were required to sign. One was required by the captain to forge signatures on other crew member's timesheets (Interviewee 203). Many crew did not receive the full amount of wages owed them under their Indonesian contract and money was deducted without explanation.

A culture of degrading verbal abuse, intimidation, frequent assault and battery of the crew by officers permeated many FCVs. One crew member became visibly upset as he recounted how, while eating lunch one day, the Bosun placed a sack over his head, and proceeded to punch his head until he had trouble breathing (Interviewee 71). On another vessel, a newly arrived crew member was ordered after his shift had finished on deck to help size fish in the processing factory. Not knowing how to undertake the task, he asked another crew member for guidance. For talking, his mouth was taped shut with packing tape by the factory manager (Interviewee 170).

A number of crew members recounted distressing experiences of sexual harassment and rape. One interviewee described how his cabin mate was repeatedly raped by an officer. He frequently saw bite marks on his chest, and when asked why his cabin mate never complained, replied "no one would listen" (Interview 180). On board another vessel, another recalled that his "crew mate [was] raped in my cabin, beneath my bunk, many times ... To make us shut our mouth the Second Officer paid money" (Interviewee 61). In recounting the sexual abuse, one interviewee stated: "I am embarrassed but he is the Master of the boat and I am powerless" (Interviewee 166). This lack of power was highlighted in many employment agreements; for example, "Crew shall bear round trip expenses for the crew who leaves the vessel by reason of discipline as long as the crew was not beating/torturing [sic] by the Korean crewmembers."

Regulatory environment

Exploitative working conditions aboard FCVs were addressed in the New Zealand Parliament in the early 1990s (Kelly, 1996). In response, the New Zealand government amended the Fisheries Act (1986) to ensure that the Minimum Wage Act 1983 and the Wages Protection Act 1983 applied to foreign crew on FCVs. In the Fisheries Act (1996), the Employment Relations Authority (ERA) and Employment Court had jurisdiction over employment disputes. The Act contained the provision for Department of Labour inspectors to monitor conditions aboard FCVs. However, this could only occur if a written complaint was received, in English, an unlikely event given that migrant crew could neither speak or write English. Despite the Act requiring that foreign crew be paid the New Zealand minimum wage, this provision was not effectively enforced.

Claims of exploitation aboard FCVs continued to surface over the next two decades, highlighting the inadequacy of the Fisheries Act (1996) in protecting migrant crew (Kelly, 2005; Fenton, 2012).

Between 2003 and 2005 there was a marked increase in the number of crew deserting vessels in New Zealand ports, which Immigration New Zealand attributed, in part, to conditions aboard the vessels (Authors, 2014). Despite these occurrences, between 1999 and 2004, labour inspectors conducted only two investigations to ensure crew aboard FCVs were paid according to the Minimum Wage Act 1983 (Swain, 2004).

In 2004 the Department of Labour undertook a comprehensive investigation into two New Zealand companies with AIPs to recruit foreign crew to ensure compliance with New Zealand employment and immigration standards (Department of Labour, 2004). The investigation led to the introduction of a voluntary Code of Practice in 2006 along with a new immigration policy for crew visas. Authored by the Department of Labour, the Seafood Industry Council and the New Zealand Fishing Industry Guild, the Code of Practice (hereafter the Code) sought to deliver the “highest level of compliance in relation to both immigration requirements and applicable laws of New Zealand...Being a signatory and adhering to the Code became a mandatory part of requirements set by Government for the issue of immigration visas and permits to foreign fishing crew” (Department of Labour et al., 2006: 4). The Code provided clear guidelines for companies engaging FCVs, for example minimum expectations pertaining to employment agreements, living and working conditions, as well as an audit process. A requirement for the AIPs was that the company must be a signatory to, and comply with, the Code, and it was intended that immigration policy would ensure compliance with the Code.

The Code was widely debated within the industry. The inclusion of the Minimum Wage Act was seen as unwarranted Government interference, insofar as crew already “work for six months of the year

for a wage which is two to three times higher than the average wage in their home country, they are well treated...” (Batley quoted in ‘Proposed Government Changes will Put Iwi Fishing Companies in Jeopardy’, 2006). The preamble to the Code clearly stated that some within the fishing industry did not agree to the minimum wage requirements. The Code sought to apply domestic regulation to foreign vessels operating within New Zealand’s EEZ, but outside of its territoriality in respect to the 12 nautical mile limit. In doing so, however, the Code violated international law (Devlin, 2009; Dawson and Hunt, 2011). Furthermore, the Code directed that employment matters must be dealt with by the ERA but the ERA had no jurisdiction over foreign owners. Moreover, as FCVs operated outside the 12 mile limit the Minimum Wage Act did not apply, thereby creating yet another jurisdictional issue.

The Code included the provision for audits to be undertaken by Immigration New Zealand to ensure compliance with the AIPs. Thirty percent of all AIPs were scheduled to be audited each financial year. In practice the audits were largely desk-based and ineffective, with often questionable documents provided by the vessel operators, and taken at face value by the auditors (Dawson and Hunt, 2011). The staff undertaking audits lacked knowledge of industry practices and were not equipped to deal with the level of sophistication employed by some operators to disguise the real nature of their activities.

Seeds of change

In July 2011, following a public outcry about conditions in the FCV sector, the New Zealand government announced a Ministerial Inquiry. The Inquiry investigated whether foreign owned and flagged vessels fishing in New Zealand’s waters supported government objectives, particularly in regards to equitable labour standards. The findings were released in February 2012 and in May the same year the government announced that all foreign vessels fishing in New Zealand waters must be reflagged as New Zealand vessels by 1 May 2016, in order, first, to bring them fully under New Zealand labour, health and safety laws and, second, to place accountability directly with the New Zealand based charterer. In order for reflagging to become law, the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Bill was enacted in August 2014.

Forces and Drivers of Change

The 2014 enactment of protective legislation to eliminate abuses from FCVs is a successful, if modest, attempt to govern the labour standards within New Zealand’s fisheries GVC. We turn to an analysis of the main drivers of this success, assessing their relative weight and impact, and how they

combined to achieve this outcome. We have structured this discussion at company and national levels to illustrate the multipolar forces that transformed the governance mode.

The company level

The New Zealand context offers a striking, if complex, case-study of a clash of company perspectives on labour standards, a clash not without its ironies. Major players in the sector took quite different positions on work conditions on charter vessels. A number of major company players, including those owned by indigenous Māori, were firmly in favour of the existing arrangements, arguing that profitability was based on such arrangements. Such views reflected an acceptance of low-cost global production arrangements and the role of New Zealand companies therein. This position reflected a conscious, proactive engagement in those arrangements, reflecting in turn a common view in New Zealand companies that they were small ‘price takers’ in subordinate roles in a global order (Report of the Ministerial Inquiry into Foreign Charter Vessels, 2012: 36).

One large player took a very different position. Talley’s supported improvements in labour conditions in the charter vessel sector, including the extension of New Zealand labour protections by legislative measures (Talley’s Group Ltd, 2011). This position was driven by a broader strategic interest in improved fishing and processing techniques, contributing to a higher value product and improved international market performance. Talley’s operates a fishing fleet in which pay and conditions are significantly better than those found in charter vessels, and are consistent with New Zealand’s national labour standards.

The company-level clash of views can be understood at a number of levels. In a small country, it has important inter-personal dimensions. It also involves established political networks (including involvement of the ruling political party’s national president as a significant shareholder in one of the largest companies). At the industry level, it reflects two competing strategies for the fishing sector – one modelling a ‘low road’ exploitation of fish stocks, primarily emphasising external drivers, the other promoting a ‘high road, high value-add-and-capture’ model. At this level, the sector is debating forcefully the model for New Zealand and company integration in global production and distribution networks. The former model highlights subordination to external demand, the latter an opportunity for a degree of autonomy, if not authority, in the networks as an effect of control of scarce, high quality natural resources. The former is at best agnostic on labour standards, and at worst, actively promotes ‘low road’ standards. The latter perceives labour standards in two ways – as an essential dimension of a ‘high road’ model, and as a political weapon against ‘low road’ opponents.

As for the position of the Korean companies engaged in the chartering of their fishing vessels and the recruitment of crews, their long-established business model is predicated on a low-cost bulk-harvesting charter system. The move to impose national labour regulation on their vessels fundamentally undermines that model. Our research found no evidence of awareness of, or adaptation to, corporate social responsibility models in the Korean charter vessel sector, arguably because they are at odds with the current dominant business model. Moreover, at least one South Korean company actively sought to circumvent their responsibility to pay back wages. Agents from the Sajo Oyang Corporation travelled to Indonesia offering a financial settlement in return for the crew withdrawing all claims both civil and criminal and foregoing legal representation. Those accepting the offer were required to sign 'Peace Agreements'. Over time, the financial offers were increased and crew members reported being intimidated into accepting the agreement (Authors, 2016).

In contrast, a striking example of active governance involvement in labour issues emerged from US companies. Investigative journalist Benjamin Skinner (2012) identified US companies purchasing seafood from New Zealand companies linked to exploitative labour practices. The response by US companies was swift. Chicago-based Mazzetta publicly released two letters – the first to their customers and the second to Sanford. Mazzetta stated that they were “calling for immediate revision of Sanford’s oversight in this area... changes must be made for Mazzetta Company to continue its relationship with Sanford”¹. Informing Sanford that “allegations of this nature are simply unacceptable”, Mazzetta requested Sanford to address immediately the issue. Other prominent US companies, Safeway and Costco, announced they would immediately undertake supply chain audits. The pressure point for US retailers was not just the negative business press coverage but also the California Transparency in Supply Chain Act (2010), which requires companies with over \$US100 million in sales and doing business in California to disclose their efforts to eradicate slavery and human trafficking from their global supply chains.

Formal institutions

Contemporary New Zealand might not be considered a likely candidate to take strong regulatory action in support of migrant crews. Since 2008, its government has been conservative, supporting labour market deregulation. Labour protections have been eroded in numerous areas, in the name of a 'rebalancing' of power towards employers. This is in a broad context created by deregulatory legislation in 1990, which halved trade union membership and established a markedly pro-employer labour relations regime. Labour-led governments between 1999 and 2008 halted the deregulatory

¹ Copies of letters available from the lead author.

process, but it gained ground once more after 2008 with the election of a National government. The current government's stance might be described as strongly pro-business, pro-trade and pro-exploitation of New Zealand's natural resources. Equally, it might reasonably be described as anti-trade union. New Zealand remains an active member of the ILO, but, the government is unsympathetic to the ILO's message of social dialogue. On the face of things, there were no major internal or business drivers for regulatory intervention by the New Zealand government into labour standards in the charter vessel sector.

However, the government was unable to ignore labour practices in that sector, for a number of reasons. First, the conditions aboard FCVs had been the source of public commentary for a number of years. This commentary was escalating. Second, research by academics interested in labour conditions on vessels was published and subsequently reported to parliament (Authors, 2011a). Third, there were some well-publicised examples of egregious behaviour by charter vessel companies, which were given wide public coverage (Devlin, 2009; Field, 2011a; 2011b). Fourth, trade unions and NGOs took action to publicise working conditions on the vessels and pressure government for change (MUNZ, 2011). Fifth, politicians took up the issue in the ministerial inquiry. Finally, the government itself came under international scrutiny, particularly from the US Department of State Office to Monitor and Combat Trafficking in Persons. In short, a confluence of factors emerged, which shone a harsh, unwavering and very public light on abuse and exploitation.

One other factor must be considered in relation to national actions around labour standards in this sector. The resource in question – New Zealand's fish stocks – are a locationally-specific resource. They cannot be moved as an effect of strategic decisions within a GVC. They are large, internationally important, and, in a world consuming ever-greater amounts of fish products, highly prized. Equally, they are subject to national policies seeking to maintain sustainable stock levels. This combination of factors means, on the one hand, a national regulatory regime can be extended across the sector with some confidence that, if it is monitored effectively, it will be successful; on the other hand, the desirability of access to these stocks of fish will mean that any added costs caused by the regulation will be borne, in the end, by the international consumer. It is, thus, easier to extend regulation in this case than, for example, over more mobile manufacturing capital.

We now turn to South Korea to look at institutional developments there. Prior to the widespread allegations of abuse in New Zealand in 2011, complaints had been lodged with the South Korean government about abusive practices. In 2004 crew (both foreign and national) complained to the Ministry of Employment and Labour about working conditions on a Juham Industries vessel fishing in New Zealand's EEZ. The crew also sought to lodge a verbal complaint to the Executive Office of the

President, but their complaint went unanswered (Kim, 2004). In 2011, following the claims of human rights abuses aboard a Sajo Oyang vessel, three South Korean NGOs - Advocates for Public Interest Law (APIL), Korean House for International Solidarity (KHIS), and the Centre for Good Corporations - submitted a complaint to the National Human Rights Commission of Korea (NHRCK), an independent government body. While the NHRCK is tasked with raising awareness of human rights violations (2005 NHRC Act, Article 19 and 26), its mandate is limited to human rights issues within South Korean sovereign territory (Article 4). This complaint was dismissed because the violation of human rights was between private individuals and hence was outside the scope of their jurisdiction. In addition, there was insufficient evidence of sexual harassment (NHRCK, 2012). The NHRCK did, however, encourage the Government to undertake an investigation and to enact measures to prevent human rights abuses against foreign crew members. NHRCK also called upon the Chairperson of the Korea Overseas Fisheries Association to include "employee-friendly clauses" in the Foreign Sailor's Collective Agreement, and for Sajo Oyang Corporation to address working conditions aboard their vessels (NHRCK, 2012).

In 2012, the South Korean government set up an inquiry team comprising six government ministries to investigate allegations of abuse. The inquiry team investigated Sajo Oyang, Dongwon, Dongnam, Taejin, Juham and GOM in relation to delays in payment of wages; non-compliance of employment contracts; forgery; and labour and human rights abuses (Ministry of Land, Infrastructure and Transport, 2012). The investigators found evidence of assault and forged employment documentation. They confirmed that crew members were denied their rights under the Korean Seamen's Act. The Coast Guard launched a prosecution against Sajo Oyang for forgery, assault and sexual violations. The charges for assault and sexual violation were subsequently dropped and the accused found guilty of document forgery. The penalty was a four month suspended sentence. The South Korean government subsequently announced amendments to the Seamen Law and Ocean Industry Development Act as well as an increase in the minimum wage paid to foreign fishing crew.

In contrast, in Indonesia - a key source country for migrant workers - little effort had been undertaken to afford protection to migrant workers in the fishing industry. While the Indonesian government has sought to strengthen protection frameworks for migrant workers, they have largely focused on migrant workers in the domestic sector. Indeed, the seafarers industry is not specifically covered by government policy. Furthermore, there was a lack of enforcement because of the magnitude of the problem and because of the difficulty in holding recruitment agencies accountable (Interviewee 203). However, more recently in 2015, the Indonesian Minister for Maritime Affairs and

Fisheries asked the New Zealand government to do more to protect Indonesian migrant fishers (*Jakarta Post*, 30 Nov 2015).

Discussion

The lessons of the FCV case-study inform our understanding of how different actors in a multipolar chain can bring about change. The first lesson relates to the sector and the resource in question. The location-specific resource, over which sovereign rights exist, provides a platform for regulatory interventions not open in other contexts in international production. Clearly, where such behaviours might have been found in, say, manufacturing capital, similar regulatory outcomes may have followed but with subsequent consequences for the long-term location of that capital. Equally, the potential to lose such investment might have had a limiting effect upon the regulatory intervention.

Second, the abuses in the FCV sector were such that they could no longer be ignored. Despite the popularity of voluntary initiatives such as labour codes, evidence of their effectiveness in protecting and upgrading labour conditions is subject to “widespread failure ... to effectively improve labour conditions in GVCs” (Siegmann et al., 2014: 6). The attempt by the New Zealand government to regulate labour conditions on FCVs initially failed through its reliance on a voluntary Code, passive desk-based auditing of labour conditions and a dominant GVC model of cost minimisation facilitated through a spatially fragmented and exploited migrant labour force. In 2011, the spotlight shone on the excesses – by migrant workers, by media, by academic research, by trade unions and activists and indeed by the US government and retailers – required the New Zealand government to respond, despite lobbying and pressure by certain fractions of the industry, to the contrary.

Third, the role of one major fishing company in New Zealand, publicly confronting the FCV model with an alternative approach based on high-road model of production, provided a breach in the governance of the GVC into which government could step in with regulation. Indeed, according to the findings of the Ministerial Inquiry, “It is apparent that differing views on the use of FCVs in New Zealand’s EEZ have caused a rift in the fishing industry” (Ministerial Inquiry into Foreign Charter Vessels, 2012: 34). From this we conclude that some GVCs may develop internal contradictions which open up the potential for regulatory intervention and control by nation-states, operating alone or in consort. Those contradictions can take the form of irreconcilable conflict between key actors in the GVC that may lead to an emerging opportunity. This process directs our attention to the role of external pressure and how the institutional relationships within a GVC can respond, prompting us to identify not just the nature of these pressures but also their significance for GVC transformation.

The nature of institutional relationships is also central to the fourth lesson. Foreign states, such as the US, were closely observing the New Zealand government's response to international exposure of human rights abuses. Future entry into the EU market – a high value market for the industry - could prove problematic, due to the requirement by the EU for flag State catch certification and the reliance of the New Zealand industry on FCVs (Ministerial Inquiry into Foreign Charter Vessels, 2012). Importantly, the South Korean government was investigating ways to address labour abuses on board South Korean flagged vessels.

Taking a broad view of what happened in relation to the FCV issue, it is clear that the success in winning improved protections for FCV crews in New Zealand waters was contingent primarily on that combination of a locationally-specific resource, the egregious nature of the abuse, the quality of the primarily-domestic campaign for improved protection, and the differences in perspective in the domestic industry as well as pressure from external institutions. Amongst these, the unavoidable nature of the allegations of abuse, and the ability to act within a sovereign nation stand out as the determining features of the FCV case.

The New Zealand fishing case points to a need to understand better the role of territory and space in GVC analysis, not least in understanding the condition and agency of labour and the efficacy of governance frameworks for labour protection anchored on internationally agreed norms. In doing so, we can move forward in addressing some of the key criticisms of the GVC literature which has tended to turn a 'blind eye' to factors that determine outcomes within the firm such as labour conditions (Siegmann et al., 2014: 5; Lakhani et al., 2013: 446; Knorringa and Pegler, 2006: 476) and in which the ability of workers to shape their workplace environment is rarely acknowledged or seriously considered (Azmeah, 2014; Rainnie et al., 2011). Instead, we must recognise ways in which production and labour control regimes vary and how the geography of the resource being extracted can shape the nature of workplace relations. In extension, by affording a greater role in GVC analysis of the State as an actor in its own right, perhaps contingent on domestic pressures for legislative change, we incorporate important links to the workplace in order to understand better how workers can bring about change in pursuit for social justice.

Transformation of the exercise of power can arise from challenges to its underlying structure, both within the GVC and through external responses to the exploitative nature of this power. As our case demonstrates, a transformational process can emerge when forces that represent social and political interests intersect to initiate change in GVC behaviour through a combination of popular and legislative action. The focus is to change the essential practices of a GVC that emphasise a low-end, cost-minimization model in which labour exploitation is rife. This recognition reminds us of the

dangers of thinking about a GVCs in isolation from the broader territorial and social setting in which it operates.

This also forces us to recognise not only that actor interests may change in response to new knowledge, as was the case with the New Zealand government, but also that broader coalitions may feed the process of change through the information and support that they are able to mobilise. It follows that developing the tools for a broader and more informed approach to GVC analysis requires us to recognise that the collection and dissemination of information by interest groups, contradictions within the GVC and the legislative activities of sovereign governments, can combine to change practices within multipolar GVCs.

Our findings bring a critical light to bear on existing literature on GVCs. Our case suggests that multipolarity and its associated dispersion of power (Ponte, 2014; Ponte and Sturgeon, 2014) do provide, in some cases at least, greater potential for the regulation of GVCs. This relates in part to the more complex institutional arrangements found in conditions of multipolarity (Sturgeon, 2001). Our case also suggests that its multipolarity was associated with greater transparency and opportunity for mobilisation and protest (Herod, 1997). This also speaks to the greater openness of multipolar GVCs to change as an effect of that mobilisation (Riisgaard and Hammer 2011; Gereffi and Lee, 2015).

Conclusion

The FCV case study demonstrates how the governance of a GVC can have an evolutionary element. In this instance, a change in governance arrangements was triggered by a contingency – the internal actions of Indonesian crew – and began to take shape according to the nature of subsequent contingencies. New Zealand firms and government avoided doing anything decisive about labour abuse despite knowing about the problems for many years. Through a series of convergent events brought to a head in 2011, migrant labour emerged as a significant actor, thus bringing about the clear transition in governance within a multipolar chain. International recognition of labour abuses in turn led to buying firms at the downstream end of the chain taking a direct involvement through pressure on their New Zealand supplier firms. Within the GVC, there had been the lack of an apparent powerful lead firm or categories of lead firms that exerted control over the upstream suppliers – the Korean FCVs. Recall that a multipolar chain is typified by low levels of ‘drivenness’ but in this case the actions of crew coupled with external forces and pressure, necessitated the New Zealand government to bring about regulatory change.

The recognition that governance can shift allows for an understanding of how labour abuses in value chains can be addressed. If particular levers are pushed – in this case by the configuration of actors placing pressure on the New Zealand government - then governance can and does move in unexpected ways. Pressure points were applied, resulting in substantive regulatory change. This is something regulatory bodies need to understand and coordinate better - that the dynamics of power can shift along the value chain through institutional players exerting strong pressure in value chains.

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